

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONALD DIXON, Individually and
as Assignee of Girls Galore, Inc.
d/b/a Allure Gentlemen's Club,**

Plaintiff,

VS.

**UNITED SPECIALTY
INSURANCE COMPANY,**

Defendant.

CIVIL ACTION FILE

NO.: _____

DEFENDANT'S NOTICE OF REMOVAL

COMES NOW, **UNITED SPECIALTY INSURANCE COMPANY,**

Defendant in the above-styled civil action, and hereby removes Civil Action File No. 2023CV374797 from the Superior Court of Fulton County to the United States District Court for the Northern District of Georgia, Atlanta Division, pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1332, 1441 and 1446, and as grounds for the removal state as follows:

STATEMENT OF THE CASE

1.

Defendant has been sued in a civil action brought in the Superior Court of

Fulton County, which is located within the Atlanta Division of the United States District Court for the Northern District of Georgia. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings, orders and documents from the Superior Court Action have been attached as Defendants' Exhibit 1 (hereinafter "D-1").

2.

The above-styled matter is an action for damages for breach of an insurance contract, for negligent or bad-faith failure to settle and to enforce a judgment. D-1, Complaint, pg. 2, ¶¶ 6-7, pg. 6-10, ¶¶ 27-49. The at-issue judgment arises out of an underlying September 19, 2020 shooting incident and action filed in the State Court of Fulton County on January 21, 2022, CAFN 22EV000458H. D-1, Complaint, pg. 84-88.

3.

The Complaint was filed January 10, 2023, in the Superior Court of Fulton County, Civil Action File No. 2023CV374797. *See* D-1, Complaint, pg. 1. Defendant United Specialty Insurance Company was served with the Summons and Complaint on January 17, 2023.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)

4.

Plaintiff Donald Dixon, individually and as Assignee of Girls Galore, Inc. d/b/a Allure Gentlemen’s Club, is a citizen of the State of Georgia. D-1, Complaint, pg. 2, ¶ 1. Defendant United Specialty Insurance Company is, and was at the time this lawsuit was filed, a corporation organized under the laws of the State of Delaware, with its principal place of business in the State of Texas. Therefore, there is complete diversity of citizenship between the parties.

5.

The at-issue judgment in which Plaintiff seeks to enforce against Defendant is in the amount of \$1,150,264.00. D-1, Complaint, pg. 92.

6.

In determining whether the requisite \$75,000.00 amount in controversy has been established, jurisdiction “is proper if it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement.” *Williams v. Best Buy Co., Inc.*, 269 F.3d 1319 (11th Cir. 2001). If the jurisdictional amount is not facially apparent from the complaint, the court ... may require evidence relevant to the amount in controversy.” *Id.*

In the present case, as the at-issue judgment in which Plaintiff seeks to enforce against Defendant is in the amount of \$1,150,264.00, Defendant asserts that it is facially apparent from the Plaintiff's Complaint that the requisite \$75,000.00 amount in controversy requirement has been met.

**ALL PROCEDURAL REQUIREMENTS
FOR REMOVAL HAVE BEEN SATISFIED**

7.

Defendant United Specialty Insurance Company was served with the Summons and Complaint on January 17, 2023. This Notice of Removal is, therefore, filed within 30 days from both the date that Defendant United Specialty Insurance Company was served with the Summons and Complaint. Removal is, therefore, timely in accordance with 28 U.S.C. § 1446(b).

8.

Pursuant to 28 U.S.C. 1446(b)(2)(A), "all defendants who have been properly joined and served must join in or consent to the removal of the action." As such, Defendant United Specialty Insurance Company consents to the removal of this action, and the requirements of 28 U.S.C. § 1446(b)(2)(A) have been met.

CONCLUSION

By this Notice of Removal, United Specialty Insurance Company does not waive any objections it may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. Defendant United Specialty Insurance Company intends no admission of fact, law, or liability by this Notice and expressly reserve all defenses, motions and/or pleas.

WHEREFORE, Defendant United Specialty Insurance Company prays that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 7th day of February, 2023.

**CRUSER, MITCHELL, NOVITZ,
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CERTIFICATE OF COMPLIANCE

Undersigned counsel certify the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Rule 5.1(C).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the undersigned has this day electronically filed the within and foregoing **DEFENDANT'S NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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Counsel for Plaintiff

I FURTHER CERTIFY that the undersigned has mailed copies of the entire pleading referenced above to the above address.

This 7th day of February, 2023.

**CRUSER, MITCHELL, NOVITZ,
SANCHEZ, GASTON & ZIMET, LLP**

/s/ Jason G. Wyrick _____

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